

## BRAND PROTECTION POLICY

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As a business partner of Kate Spade & Company and/or its affiliates (hereinafter collectively referred to as “KS&C”), as well as any one of the brands owned by KS&C including, but not limited to: Kate Spade New York and Jack Spade (Kate Spade New York and Jack Spade as well as all other brands owned by KS&C and/or its affiliates are hereinafter collectively referred to as the “KS&C Brands”), we ask for your support in protecting our brands.

This Policy sets forth the Brand Protection guidelines for all vendors. It includes seven major partitions which are:

1. Seconds Policy
2. Overrun Policy
3. Destroy Policy
4. Confidentiality Policy
5. Intellectual Property Protection and Anti-Counterfeiting Policies
6. Indemnification and Penalties
7. Miscellaneous

### 1. SECONDS POLICY

Our goal here is to prevent second quality merchandise bearing the KS&C Brands from being sold into unauthorized channels of distribution. Therefore, we appreciate and expect your compliance with the following policy pertaining to second quality/irregular merchandise bearing the KS&C Brands.

**Vendors are not permitted to discard or sell to a third party any excess merchandise bearing the KS&C Brands of any quality level under any circumstances.**

- A. Listed below are the procedures that must be followed for irregular / seconds merchandise bearing the KS&C Brands that is deemed **saleable**:
  1. KS&C has the option to purchase all seconds/irregulars that KS&C deems to be in good condition at a **50%** discount. The product must be compliant for restricted substances, functional, wearable, and void of large visible holes and/or stains, damaged and/or insecure hardware, obvious distress markings on component materials. Doubts about the degree of irregularity can be confirmed with the applicable QC and Production teams responsible for the category.
  2. Notification of any irregulars / seconds must be made to KS&C in writing at the completion of the production process.
  3. If KS&C exercises its option to purchase these goods in writing, the vendor shall hold the goods for a minimum period of 90 days and not to exceed 150 days before shipment to KS&C will be permitted. KS&C’s notice of its exercise of the option to purchase the goods will indicate the date such goods are to be shipped.
  4. All labels and tags must be and remain in first quality condition
  5. The regular packing methods must be followed.

**If KS&C decides not to exercise its option to purchase irregulars/seconds, the goods MUST BE DESTROYED, and the vendor must follow the procedures for destruction explained in Section 3.**

- B. Listed below are the procedures that must be followed for irregular / seconds merchandise that are deemed **unsalable**:

Merchandise that is deemed unsalable **must be destroyed** in accordance with the procedures for destruction set forth in Section 3.

If our Brand Protection Team locates second quality or irregular (KS&C) products being offered for sale outside of the country of origin or prior to 150 days X-factory date, the vendor/manufacturer will be at risk of losing any future business with (KS&C). This also may cause the vendor to incur (KS&C) expenses relative to investigating this violation of our policy. In addition, second quality or irregular products bearing the KS&C Brands being offered for sale within country of origin without the labels properly mutilated, prior to 150 days x-factory date, or with the hangtags / paper trim, will also put the vendor / manufacturer at risk of losing future (KS&C) business and this may also cause the vendor to incur (KS&C) expenses relative to investigating this violation of our policy.

## **2. OVERRUN POLICY**

Over-shipment allowance

- a. Order Over 1,000 pieces +5 / -5%
- b. Order Less than 1,000 pieces +5 / -5%

KS&C will accept up to 5% of first quality merchandise on source orders over 1,000 units and up to 5% on orders of 1,000 units or less. These goods can be shipped without prior notification or approval. Additional finished first quality units produced over these limits must not be shipped without the prior written approval as applicable from the KS&C - Director of Production.

Despite the procedures below, it is inherent that all vendors closely manage the manufacture of all merchandise bearing the KS&C Brands so that there are no excessive levels of overruns. Listed below are the procedures that must be followed for finished first quality merchandise that is above the stated acceptable limits:

1. KS&C has the option to purchase all finished first quality overruns at a **25%** discount.
2. Notification of any finished first quality overruns must be made to KS&C in writing at the completion of the production process.
3. If KS&C exercises its option to purchase these goods in writing, the vendor shall hold the goods for a minimum period of 90 days and not to exceed 150 days before shipment to KS&C will be permitted.
4. All labels and tags must be and remain in first quality condition.
5. The regular packing methods must be followed.

**If approval is not granted, the goods MUST BE DESTROYED, and the vendor must follow the procedures for destruction explained in Section 3. Failure to follow these procedures constitutes and the sale of any unauthorized overruns constitutes unlawful trademark counterfeiting subject not only to losing business with KS&C, but also subject to fine and/or damages as allowed under all federal and local laws.**

## **3. DESTROY POLICY**

**Please note; Failure to comply with the following procedure constitutes a violation of KS&C's Brand Protection Policy and may result in a penalty of \$10,000 USD per occurrence or higher dependent on federal and local laws and may affect future business and the sale of any unauthorized merchandise bearing the KS&C Brands**

**shall constitute unlawful trademark counterfeiting and KS&C reserves all rights and remedies available at law or in equity related to such sales.**

Under no circumstances shall any Overruns, Cancelled or Irregular merchandise bearing the KS&C Brands not accepted or shipped to KS&C be sold or otherwise distributed into the local market or anywhere in the world.

**A. Listed below are the procedures that must be followed for products not accepted by KS&C:**

1. **Written approval MUST be obtained as applicable from the KS&C VP of Sourcing and Manufacturing PRIOR to the commencement of the disposal process of any KS&C merchandise.**
2. Vendor must provide a written listing, samples, and photos of any merchandise bearing the KS&C Brand that requires destruction.
3. Vendor must describe the steps that will be taken to destroy the goods.
4. Once written approval is received, the vendor may proceed to schedule the destruction of the merchandise. Destruction must be completed within 10 days.
5. Vendor must take photographs of this destruction process, and document such destruction. This process **MUST** be done under the supervision of a KS&C associate, their Agent, or other Designee approved by KS&C at the Vendor's expense. A copy of the destruction back up (including but not limited to certificate of destruction, photos or video of actual destruction, etc) but be provided to KS&C.
6. In cases such as jewelry whereby rejected or unsalable product may be sent to third parties for metals reclamation, all products must be crushed or otherwise rendered unsalable in the open market before being turned over to a third party for rendering. Documentation requirements remain the same as for other types of destruction.
7. All records of the destruction of these items must be maintained by the vendor and be available for review if so requested by KS&C.

**B. LABELS / PACKAGING:**

For excess labels and / or packaging from order reduction/cancellation, they should be kept in a separate secured place for future seasons' use and an inventory of these excess labels is to be sent to the appropriate brand production team member. Should there be no further business with you, all raw materials with any KS&C Brand identity must be returned to KS&C.

For label items no longer being run, all unused material must be destroyed; it is vendor's responsibility to destroy the goods under our policy as stated above.

**Procedure:**

1. Appropriate KS&C Brand Production Team member confirms what items are to be destroyed; this will be indicated on the monthly inventory chart.
2. Production team will inform the vendors to destroy the goods
3. Vendor will proceed to destroy the goods by cutting into halves or smashing, so that the brand logo becomes incomplete or illegible.
4. Vendor will take photos of the destroyed item and send to production team for record, including a statement of the destroyed goods, and the relevant invoice that these goods were paid against.

#### 4. CONFIDENTIALITY POLICY

The following terms and conditions shall apply to Confidential Information. "Confidential Information" shall mean and include any and all information which KS&C provides to Vendor, whether provided or received orally or in writing, concerning or relating in any way to the products, processes, know-how, techniques, designs or methods of KS&C, whether relating to research, development, purchasing, financial information, marketing, merchandising, selling, this Brand Protection Policy or otherwise. Without limitation, Confidential Information shall include, but not be limited to, all know-how, technical information, systems, inventions, intellectual property, ideas, trade secrets, concepts and designs relating to products bearing the KS&C Brands whether now existing or hereafter developed, and customer names and lists, marketing and other relationships, whether contractual or not, between a party, its customers, employees, agents, consultants and independent contractors. Confidential Information shall include all information whether oral or in writing and shall include all documents containing or embodying any Confidential Information including but not limited to contracts, reports, specifications, electronic storage media, computer tapes, software or discs.

Notwithstanding the foregoing, Confidential Information shall not include information or data which: (a) was in the public domain prior to being furnished to the vendor; b) was known to the vendor prior to its disclosure under the provisions hereof; (c) is disclosed to a party by a third party, (without any breach of any confidentiality Policy or obligation to the other party) who did not unlawfully acquire or receive such information on a confidential basis from the other party; (d) after being furnished to the vendor, entered the public domain through no act or failure to act on the part of the vendor; or (e) is independently developed by the vendor without any breach of this Policy. Confidential Information shall not be deemed to be in the public domain merely because any part of said information is embodied in general disclosures or because individual features, components or combinations thereof are now known or became known to the public.

Confidential Information furnished to the vendor shall, at all times, be and remain the property of KS&C and nothing herein shall be deemed by implication or otherwise to convey to the vendor any rights in or to such Confidential Information.

Vendor shall maintain all Confidential Information in strictest secrecy and confidence and shall not use the Confidential Information for any purpose other than evaluating the Confidential Information for the purpose of conducting a manufacturing relationship. Vendor shall not duplicate any Confidential Information, in whole or in part, except as provided herein. In the absence of a specific written Policy to the contrary, all information, written or oral, furnished directly or indirectly by KS&C shall be considered Confidential Information. Vendor acknowledges that KS&C will deliver the Confidential Information in reliance upon the promises and Policies of vendor to adhere to this Policy.

Vendor acknowledges that the value of the Confidential Information provided by KS&C is attributable substantially to the fact that such Confidential Information is maintained by KS&C in strictest confidentiality and secrecy. Accordingly, Vendor covenants and agrees to keep the Confidential Information strictly secret and confidential, to safeguard the Confidential Information and to prevent disclosure or other dissemination thereof to any person other than an employee of Vendor with a need to know such information, or a third party (each a "Representative") necessary for the conduct of the manufacturing conditioned on such third party's Policy in writing to be bound by this Policy. Vendor shall advise each Representative of the confidential nature of the Confidential Information. Vendor shall be responsible for any breach of the provisions of this Policy by any Representative. Vendor agrees to take all measures, including, but not limited to, court proceedings at Vendor's own expense, necessary to compel compliance by a Representative with the provisions of this Policy. Vendor shall take all reasonable precautions to prevent disclosure of Confidential

Information to the public or to prevent the unauthorized use of such information. Company shall have the right, upon reasonable notice to Vendor, to perform inspections of Company's premises for the purpose of assuring itself that such precautions are in fact being taken by Vendor.

In the event that Vendor or anyone to whom Vendor discloses the Confidential Information receives a request to disclose all or any part of the Confidential Information under the terms of a subpoena or other order issued by a court of competent jurisdiction or by another governmental agency, Vendor shall: (i) promptly notify KS&C of the existence, terms and circumstances surrounding such a request; (ii) consult with the applicable disclosing party on the advisability of taking steps to resist or narrow such request; (iii) if disclosure of such Confidential Information is required, furnish only such portion of the Confidential Information as Vendor is advised by counsel is legally required to be disclosed; and (iv) cooperate fully with KS&C, in its efforts to obtain an order or other reliable assurance that confidential treatment will be accorded to such portion of the Confidential Information that is required to be disclosed.

Vendor shall, within five (5) days of request of KS&C, immediately return to KS&C, or destroy, all documents and other tangible items expressing or embodying the Confidential Information and all copies thereof made by Vendor and by anyone to whom the Confidential Information has been made available by Vendor in accordance with the provisions of this Policy, and shall not retain any copies, extracts, or other reproductions, in whole or in part, of the same for any purpose. Vendor shall destroy all memoranda, notes, samples, concept information, and other documents prepared by Vendor and the Representatives not returned to KS&C containing, or based in whole or in part on, any Confidential Information. Vendor shall in writing certify to Disclosing Party as to the return or destruction of all Confidential Information. Nothing herein contained shall obligate KS&C to provide Vendor access to its books, records or other information, confidential or not, and KS&C may, at any time, deny access thereto.

Vendor acknowledges and agrees that any breach of this Policy (either actual or threatened) by Vendor or any Representative will give rise to irreparable injury to KS&C which is not compensable in damages alone. Therefore, Vendor agrees that, in such event, KS&C shall have the right to seek and obtain temporary and permanent injunctive relief, without the necessity of posting a bond, against the breach or threatened breach of the obligations of Vendor in this Policy, in addition to any and all other remedies and rights at law or in equity, and such remedies and rights shall be cumulative.

## **5. INTELLECTUAL PROPERTY PROTECTION & ANTI-COUNTERFEITING**

### **a. Introduction**

This section outlines guidelines, expectations, and procedures required to protect the intellectual property, trademarks, designs, and KS&C Brands in the design, development, and manufacturing processes of our products.

### **b. Purpose**

To protect the Company's brands and products from infringement, copying, counterfeiting, and misuse, whether intentional or unintentional.

### **c. Description**

General requirements at the factory level needed to protect our intellectual property and prevent counterfeiting.

**d. Processes**

1. All factories must sign and comply with our Brand Protection Policy which outlines the handling of overruns, shortages, and financial penalties for infringement of our intellectual property. The original signed document will be kept on file in our corporate offices.
2. All factories must have a loss prevention program in place to secure their facilities adequately from theft of our intellectual property as well as our finished products with sufficient chain of ownership controls.

In the **DEVELOPMENT** cycle, the following minimum basic safeguards must be in place:

Limited Access to Development Data

- a) Reasonable efforts should be employed to ensure development is conducted in a secured area, preferably dedicated solely to our brands with access only by authorized factory staff that work on our brands. All fire code and safety regulations must be observed.
- b) No complete specification sheets are to leave the factory. Partial specification sheets may be used for specialty components provided that they are edited to remove our logos or other identification, and do not contain enough data to reconstruct our design.
- c) A chain of ownership process must be in place to serve as a record of all staff who have handled our spec sheets and design data.

Limited Access to Duplication

- d) Cell phones, USBs, cameras, PDAs, or any other portable devices that can be used for duplication shall not be used to record or copy KS&C styles, specifications, designs, samples, or any other KS&C proprietary information. The use of these devices in this manner is a violation of the KS&C Brand Protection Policy and could result in penalties as described in section 6 of the KS&C Brand Protection Policy.

Limited Number of Components and Samples

- e) All components and materials are to be purchased to need, inventoried adequately, and their use and disposition documented and signed for.
- f) All master models, molds, patterns, dies and other items used to manufacture our specific designs are to be kept under the control of the development manager and locked in a secure location when not in use.
- g) Samples are to be produced only to need, and their destination logged and signed for.
- h) All samples are to be produced in a dedicated sampling room and with access limited to authorized personnel. For showroom sample sets which due to volume are produced in line, the same security requirements apply.

In the **PRODUCTION** cycle, the following minimum basic safeguards must be in place:

Material Purchasing/Component Control

- a) Materials are to be ordered in accordance with purchase order quantities and include the overrun percentage allowance.
- b) Factory purchase orders must have a confidentiality notice in local languages to emphasize the proprietary nature of the materials.
- c) All components and partially finished products are to be inventoried and signed for when passed between manufacturing steps, and preferably by a single main production manager.
- d) Defective components and partially or fully finished products are to be isolated, inventoried, and destroyed by a factory manager in the presence of a representative of the Company, and the destruction needs to be documented with photos or video and kept on file.
- e) Production lines are to be kept separated by brand.
- f) Cell phones, USBs, cameras, PDAs, or any other portable devices that can be used for duplication shall not be used to record or copy KS&C styles, specifications, designs, samples, or any other KS&C proprietary information. The use of these devices in this manner is a violation of the KS&C Brand Protection Policy and could result in penalties as described in section 6 of the KS&C Brand Protection Policy.
- g) All production samples, production sheets, master models, dies, molds, patterns, tooling, jigs, or other items specific to the production of our designs are to be retained by the production manager, and kept in a locked and secured area when not in use.
- h) The purging and destruction of outdated files, dies, molds, models and other items specific to the production of our products is to be conducted in the presence of our representative and documented by photograph or video.

QA Cycle

- a) All reference samples and production sheets are to be kept locked up when not in use.
  - b) All items are to be counted, logged, and signed for by both the factory representative as well as the KS&C authorized QA representative.
  - c) Rejected merchandise is to be inventoried, logged, and destroyed unless reworked and documented properly.
  - d) Cell phones, USBs, cameras, PDAs, or any other portable devices that can be used for duplication shall not be used to record or copy KS&C styles, specifications, designs, samples, or any other KS&C proprietary information. The use of these devices in this manner is a violation of the KS&C Brand Protection Policy and could result in penalties as described in section 6 of the KS&C Brand Protection Policy.
  - e) Inspected and passed product is to be sealed and secured in a locked area until final shipment processing.
3. All factories must have in place a basic anti-counterfeiting program for its employees including:

- a) New hire education including a signed acknowledgement of his/her understanding of the seriousness of participating in counterfeiting and the impact on employment including separation from the company. (Examples are available upon request.)
  - b) Ongoing or semi-annual refresher program for employees to reinforce the requirements.
  - c) Regular written reminders (e.g. president's letter, poster, etc) on the topic, preferably quarterly.
  - d) Semi-annual loss prevention seminars in the local language for line and middle managers.
  - e) Policy and procedure for management for properly and legally addressing suspected or known theft with employees.
  - f) Clear, written policy on penalties for engaging in counterfeiting activities in employee handbook and/or contract.
4. All factories must take adequate steps to physically secure their facilities by
- a) Installing metal detectors for use at authorized entrances/exits. (applies only to Jewelry Factories)
  - b) Having security personnel to properly inspect all bags, boxes, etc upon exiting the factory. It is recommended that employees be provided with clear PVC or plastic bags for easier inspection.
  - c) Limiting entrances and exits (except those needed for emergency use) to secured and authorized ones.
  - d) Providing secure lockers/locker rooms (where necessary) that are separate from the development and production areas.
  - e) Installing CCTV (closed circuit television) to monitor theft risk areas of the factory including a routine for effective review and use of the system.
5. Senior factory management is required to periodically audit the foregoing processes to ensure that they are being performed properly and to thoroughly investigate and correct irregularities.
6. The foregoing processes are subject to unannounced audits by a KS&C authorized agent and/or staff member.

## **6. INDEMNIFICATION AND PENALTIES**

Vendor hereby indemnifies and holds harmless KS&C from and against any and all costs and expenses, including, but not limited, reasonable attorneys' fees and expenses incurred by KS&C in enforcing and preserving its rights under this Policy.

It is the responsibility and obligation of the supplier to adhere to the guidelines of the KS&C Brand Protection Policy.

Any supplier, vendor, or facility found to be in violation of the KS&C Brand Protection Policy, will be considered eligible for the imposition of sanctions. The company's position on violations of the Brand Protection Policy is zero tolerance.

### **Sanctions for Brand Protection Policy Violations:**

Violations of the Brand Protection Policy could result in the applicable by KS&C of any or all of following sanctions:

- A charge of \$10,000 USD for each occurrence, and/or



- Charges for any and all legal fees incurred by KS&C as a result of violations of the Brand Protection Policy, and/or
- Suspension of the KS&C/Supplier partnership, and/or
- Termination of the KS&C/Supplier partnership as well as **fine and/or damages as allowed under all federal and local laws.**

All alleged reports of Brand Protection Policy infractions will be investigated by KS&C. If violations are deemed to have occurred, KS&C may impose these sanctions in any combination and sequence that it deems appropriate to the situation.

In the event it becomes aware of a policy violation, KS&C will notify the supplier partner in writing of its findings, any applicable sanctions to include fines.

All fines imposed under this policy shall be considered a debt to KS&C by the violator and shall be considered collectable as such and will be subject to current collectable policy and procedures.

**7. MISCELLANEOUS.**

No failure or delay by KS&C in exercising any right, power, or privilege under this Policy shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power, or privilege hereunder. KS&C reserves any and all rights and remedies available to KS&C at law or in equity, including the ability to collect reasonable attorneys' fees, related to the unlawful use of the KS&C Brands and/or the unauthorized sale of products bearing the KS&C Brand(s) and/or a breach of this Policy.

In the event that any provision(s) of this Policy shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions of the Policy shall not in any way be affected or impaired.

This Policy shall be binding upon the parties, their successors and representatives and shall inure to the benefit of the parties, their successors and representatives. In no event may either party assign its rights or obligations under this Policy without the express written consent of the other party.

The Policy shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to its conflict of law rules or principles. Any dispute arising between the parties shall be brought in a court of competent jurisdiction in the State of New York, and each party submits itself to the jurisdiction of such court.

Please acknowledge your agreement with all of the above stated terms, conditions and/or policies by signing and dating below.

Business Partner Company Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_